04-19.05

Practitioner's Docket No.TRW(ASG)6052

17 3482 VT 3482

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dominik Schutz

Application No.: 10/083,079

Group No.:

3682

Filed: February 26, 2002 Examiner:

Vinh Long

For:

VEHICLE STEERING WHEEL

Mail Stop Appeal Brief--Patents **Commissioner for Patents** P.O. Box 1450 Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF (PATENT APPLICATION—37C.F.R. 1.192)

Note: The phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) (Which provides an adjustment of patent term if there is a delay on the part of the Office to respond within 4 months after an "appeal was taken") means the date on which an appeal brief under § 1.192 (and not a notice of appeal) was filed. Compliance with § 1.192 requires that: 1. the appeal brief fee (§ 1.17(c)) be paid (§ 1.192(a)); and 2. the appeal brief complies with § 1.192(c)(1) through (c)(9). See Notice of September 18, 2000, 65 Fed. Reg. 56366, 56385-56387 (Comment 38).

Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of 1. Appeal filed on February 25, 2005

NOTE: "Appellant must, file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.37 CFR 41.(a)(1). The breif is no longer required in triplicate. The former alternative time for filing a brief (within the time allowed for reply to the action from which the appeal was taken) has been removed. Appellant must file within two months from the notice of appeal. See Notice of August 12, 2004, 69 FR 49960, 49962.

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2.	STATUS OF APPLICANT						
	This application is on behalf of						
	\boxtimes	other than a	a small entity.				
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		is attached.					
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NOTE:	The time periods set forth in 37 C.F.R. § 1.192(a) are subject to the provision of § 1.136 for patent applications. 37 C.F.R. § 1.191tl). See also Notice of November 5, 1985 (1060 O.G. 27).						
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The pro	oceedings herein	are for a pate	nt application and the	provision	s of 37 C.F.R. 1.136 apply		
		(con	mplete (a) or (b), as	applicable	e)		
	(a) Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(5)) for the total number of months checked below:				k		
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			Fee	\$	<u>5</u>		

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Dominik Schutz

Serial No. : 10/083,079

Filing Date : February 26, 2002

For : VEHICLE STEERING WHEEL

Group Art Unit : 3682

Examiner : Vinh Luong

Attorney Docket No. : TRW(ASG)6052

Mail Stop Appeal Brief - Patents Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Following the Notice of Appeal filed February 25, 2005, Appellant presents this Appeal Brief.

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1. REAL PARTY IN INTEREST

The real party in interest is TRW Automotive U.S. LLC. An assignment of this application to TRW, Inc. was recorded February 1, 2000, Reel/Frame: 010548/0647. This application has been subsequently assigned to TRW Automotive U.S. LLC via an unrecorded assignment.

2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

3. STATUS OF CLAIMS

Claims 1-14 are currently pending in this application.

Claims 1-4, 6-11, and 13 stand rejected as anticipated by Bohn et al.,
EP 0 945 310 and US 6,312,012 (hereinafter "Bohn et al."). Claim 5 stands rejected
as being obvious over Bohn et al. Claims 12 and 14 stand allowed.

The rejection of independent claims 1 and 13 and dependent claims 2-11 is appealed.

4. STATUS OF AMENDMENTS

No amendment was filed after the Office Action of November 1, 2004.

5. SUMMARY OF THE INVENTION

A vehicle steering wheel has a steering wheel skeleton 10 of a die cast material and a foam casing 12 of the skeleton, as well as a gas bag module 14. (Specification, page 4, lines 2-4 and Fig. 1). The gas bag module 14 has a cupshaped receiving housing 16 of plastic, which is open towards the top and in which a gas bag 18 is accommodated. (Specification, page 4, lines 6-7). The receiving housing 16 has a base 20 and a surrounding side wall 22 with an upper edge 24.

(Specification, page 4, lines 7-9). The receiving housing 16 is closed by a covering cap 26 which tears open on unfolding of the gas bag 18 and exposes an outlet opening. (Specification, page 4, lines 9-10). The covering cap 26, having a large surface area, has an outer edge 28 which, separated by a narrow gap 30, is adjoined by the foam casing 12 so as to be flush with the outer edge. (Specification, page 4, lines 10-13). The covering cap 26 completely covers the front side of the gas bag module 14. (Specification, page 4, lines 13-14).

Immediately adjoining the outer edge 28, guides are provided in the form of bolts 32 for the covering cap 26 and the gas bag module 14. (Specification, page 4, lines 15-16 and Fig. 3). A guide 32 lies here on each spoke 34. (Specification, page 4, lines 16-17). The guides 32 are made of plastic and are formed in one piece on the receiving housing 16. (Specification, page 4, lines 18-19). The receiving housing 16 has extensions 36 on the outer edge 24 that project laterally outwards to the edge 28 of the covering cap 26. (Specification, page 4, lines 19-21 and Fig. 3). The guides 32 each have an upwardly directed projection 38 which projects into a seat 40 on the rear face of the covering cap 26, the guide being received in the seat without any lateral play. (Specification, page 4, lines 21-23). The individual guides 32, however, are not directly connected with each other. (Specification, page 4, lines 23-24). The covering cap 26 is, furthermore, firmly connected with the receiving housing 16 by means of cross-pieces. (Specification, page 4, lines 24-26). Each guide 32 has a longer shaft section which projects downwards and extends through a restoring spring 41. (Specification, page 4, lines 26-27). A bearing bush 42, with a collar serving for the abutment of the restoring spring 41, is slipped from below onto each guide 32. (Specification, page 4, lines 27-29). The free end of

each guide 32 is thickened, in order to prevent a withdrawal of the bearing bushes 42 after installation. (Specification, pages 4-5, lines 29 and 1).

The gas bag module 14 is therefore placed on installation together with the guides 32 and the bearing bushes 42 from above onto the skeleton 10 and the foam casing 12 until the bearing bushes 42 are pressed into corresponding recesses 50 in the foam casing. (Specification, page 5, lines 1-5 and Fig. 5). Consequently, the guides 32 are mounted elastically in the foam casing 12, and in fact not only axially elastically but also radially elastically, so that the guides 32 together with the bearing bushes 42 are tilted in the foam casing 12 with each lateral pressure onto the covering cap 26. (Specification, page 5, lines 5-8)

On the rear face on the base 20, hooks 44 are provided as part of a detent connection. (Specification, page 5, lines 9-10) An elastic detent piece 46, connected with the skeleton 10, additionally belongs to each detent connection, which detent piece 46 engages behind an undercut on the hook 44. (Specification, page 5, lines 10-12) The detent connection is constructed such that the detent piece 46 together with detent hook 44, in an initial position, forms the stop for the gas bag module 14, with, however, a displacement within the detent connection being possible in the direction of the axis A and downwards, in order to permit the actuation of a horn. (Specification, page 5, lines 12-16 and Fig. 1)

If, for example, in the region of the outer edge 28, pressure is applied via the driver's thumb from above in the direction of the arrow in order to actuate the horn, the restoring spring 40, lying immediately beneath the force introduction point, will undergo a deflection. (Specification, page 5, lines 17-20 and Fig. 2) The guide 42 will likewise travel at this point downwards along the bearing bush 42, the recess 50

in the foam casing 42 being so deep that the guide 32 does not strike the base of the recess 50. (Specification, page 5, lines 20-22) Through the asymmetrical lateral introduction of force, a swivel movement is brought about around an imaginary rotation axis 60 in the region of the left-hand guide 32. (Specification, page 5, lines 23-25) The rotation axis 60 is very close to the outer edge 28, so that no substantial radial displacement of the outer edge 28 on the right-hand side is involved with the swiveling of the covering cap 14 downwards, and the gap 30 remains substantially uniform. (Specification, page 5, lines 25-28) The slight radial movement components of the guides 32 are permitted by the foam casing 12, which permit a tilting movement of the bearing bushes 42. (Specification, page 5, lines 28-29)

In this case, a force (see also arrow F), which is applied in the region of the mounting, causes a tilting of the guide 32, 42 in the foam casing. (Specification, page 6, lines 1-4 and Figs. 2 and 4). The mounting may tilt in a reverse direction; this being caused by a pressing down of the covering cap 14 in the region of the left-hand side mounting. (Specification, page 6, lines 4-6 and Figs. 2 and 4b). The guide 32 has the axis C and the opening 50 has axis B. (Specification, page 6, lines 6-7 and Figs. 4a and 4b).

In addition, the horn is actuated as soon as horn contacts 62, 64 are in contact. (Specification, page 6, line 8). By utilizing the flexibility of the foam casing 12 and the positioning of the guides 32 as far away from the axis A as possible and as close to the gap 30 as possible, the guiding of the gas bag module 14 is made possible with few parts and with precise maintaining of tolerances. (Specification, page 6, lines 9-12 and Fig. 1). Through the elasticity of

the foam casing 12, the friction between the restoring springs and their supports, which occurs through a lateral relative movement of these parts with respect to each other in the prior art, is avoided. (Specification, page 6, lines 12-15). The entire unit of the receiving housing 16, guides 32, and bearing bushes 42, together with the restoring springs 40, aligns on application of a force for horn actuation in the direction of the force. (Specification, page 6, lines 15-17).

6. ISSUES

- a. Whether the rejection of independent claim 1 and dependent claims 2-11 as being anticipated by Bohn et al. is proper.
- b. Whether the rejection of independent claim 13 as being anticipated by
 Bohn et al. is proper.

7. **GROUPING OF CLAIMS**

- a. Independent claim 1 and dependent claims 2-11 stand or fall together.
- b. Independent claim 13 stands or falls alone.

Claim groups a-b stand or fall independently from one another.

8. ARGUMENT

a. The rejection of independent claim 1 and dependent claims 2-<u>11 as</u> being anticipated by Bohn et al.

Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983) cert. denied 469 U.S. 851 (1984). For a reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of

the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ.2d 1001, 1010 (Fed. Cir. 1991).

Claim 1 recites the guides being arranged and elastically mounted such that, upon laterally pressing down the covering cap for the predetermined distance by a force suitable for actuating the horn, the guides are tilted by an amount allowed by a yielding of the foam casing. Bohn et al. fails to expressly disclose this element of claim 1.

The Office Action states if "one use a tilt hammer to hit on Bohn's casing in the direction F, the stud (10) inherently is tilted or displaced based on ordinary and customary meaning of the term." (Office Action, page 7, lines 9-11). Thus, the position proposed by the Office Action is that the mounting studs (10, 26) of Bohn et al. inherently tilt when hit by a hammer. While this may be true, destroying a structure with a hammer in order to create a particular motion of its parts would not have occurred to one of ordinary skill in the art and is not a reasonable interpretation of Bohn et al.

Further, a limitation is inherently disclosed by a reference only if it is necessarily present and a person of ordinary skill in the art would recognize its presence. Crown Operations Int'l Ltd.v. Solutia Inc., 289 F.3d 1367, 1377, 62 USPQ.2d 1917, 1922-1923 (Fed. Cir. 2002). Inherency may not be established by probabilities or possibilities. 289 F.3d at 1377, 62 USPQ at 1923. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. Id.

As stated above, Bohn et al. does not expressly disclose tilting of the mounting studs (10). One of ordinary skill in the art would not recognize that the

studs (10 or 26) of Bohn et al. <u>necessarily</u> tilt when the cover cap (6) is axially depressed, for the following reasons:

- 1. Bohn et al. do not state anywhere in the reference that the studs (10 or 26) tilt.
- 2. Bohn et al. disclose a radially extending flange (11 in Fig. 1) and a washer (13 in Fig. 2) that provide a radially extending surface that would prevent the studs (10) from tilting.
- 3. Bohn et al. disclose a cover cap (6) that will yield when the edge of the cover cap (6) is depressed such that none of the studs (10 or 26) tilt.
- 4. Bohn et al. disclose that the mounting plate (30) of the gas bag module (5) may tilt when the horn is actuated. Bohn et al. does not disclose tilting of the studs (10).

Since Bohn et al. fails to teach or suggest this feature of claim 1, the rejection of claim 1 is improper and should be reversed.

Several arguments from the Office Action will now be addressed. The Office Action states that a reference need not provide explanation to anticipate when an artisan would know as evidenced by a standard textbook. (Office Action, page 6-7 citing In re Opprecht, 878 F.2d 1447, 12 USPQ.2d 1235 (Fed. Cir. 1989). In Opprecht, it was agreed that the electrode wire of the reference elongated just as the electrode wire of the disputed claim. It is respectfully submitted that this is not the issue in this case. Appellants contend the stud (10) of Bohn et al. does not tilt upon actuation of the horn, as recited in claim 1. Appellants know of no textbook that states that the stud (10) of Bohn et al. would tilt.

The Office Action states that the Amendment filed on July 30, 2003 constitutes an admission that the stud (10) of Bohn et al. tilts (Office Action, page 8). As stated above and in the Amendment of July, 30, 2003 (pages 11-12, lines 25-28

and 1-2), Bohn et al. disclose that the mounting plate (30) may tilt (Col. 3, lines 41-46), not the stud (10).

The Office Action states that, since the stud is mounted to the mounting tab (17) of the mounting plate (30) and the mounting plate may tilt, the stud of Bohn et al. implicitly tilts (Office Action, page 9). By this reasoning, there could be no relative tilting between any elements of the steering wheel of Bohn et al. because the elements are mounted together. This argument fails to account for relative deformation/deflection of the mounting plate (30) and/or the mounting tab (17).

The Office Action has not shown that the stud (10) of Bohn et al. will necessarily tilt. The Office Action has not even established that the stud (10) of Bohn et al. will probably tilt. Thus, the test for inherency of <u>Crown Operations</u> has not been satisfied. The mere fact that the stud (10) of Bohn et al. may tilt, given a set of circumstances (i.e., being hit with a hammer), is not sufficient to establish inherency.

The rejection of claim 1 should be reversed and claim 1 should be allowed.

Dependent claims 2-11 depend from claim 1 and should be allowed for at least the same reasons as claim 1.

b. The rejection of independent claim 13 as being anticipated by Bohn et al.

Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a reference to anticipate a claim, "[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of

the invention." Scripps Clinic & Research Foundation v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ.2d 1001, 1010 (Fed. Cir. 1991).

Claim 13 recites the guides being arranged and elastically mounted such that, upon laterally pressing down the covering cap for the predetermined distance by a force suitable for actuating the horn, the guides are tilted by an amount allowed by a yielding of the foam casing. Bohn et al. fails to expressly disclose this element of claim 1.

The Office Action states if "one use a tilt hammer to hit on Bohn's casing in the direction F, the stud (10) inherently is tilted or displaced based on ordinary and customary meaning of the term." (Office Action, page 7, lines 9-11). Thus, the position proposed by the Office Action is that the mounting studs (10, 26) of Bohn et al. inherently tilt when hit by a hammer. While this may be true, destroying a structure with a hammer in order to create a particular motion of its parts would not have occurred to one of ordinary skill in the art and is not a reasonable interpretation of Bohn et al.

Further, a limitation is inherently disclosed by a reference only if it is necessarily present and a person of ordinary skill in the art would recognize its presence. Crown Operations Int'l Ltd.v. Solutia Inc., 289 F.3d 1367, 1377, 62 USPQ.2d 1917, 1922-1923 (Fed. Cir. 2002). Inherency may not be established by probabilities or possibilities. 289 F.3d at 1377, 62 USPQ at 1923. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. Id.

As stated above, Bohn et al. does not expressly disclose tilting of the mounting studs (10). One of ordinary skill in the art would not recognize that the

studs (10 or 26) of Bohn et al. <u>necessarily</u> tilt when the cover cap (6) is axially depressed, for the following reasons:

- 1. Bohn et al. do not state anywhere in the reference that the studs (10 or 26) tilt.
- 2. Bohn et al. disclose a radially extending flange (11 in Fig. 1) and a washer (13 in Fig. 2) that provide a radially extending surface that would prevent the studs (10) from tilting.
- 3. Bohn et al. disclose a cover cap (6) that will yield when the edge of the cover cap (6) is depressed such that none of the studs (10 or 26) tilt.
- 4. Bohn et al. disclose that the mounting plate (30) of the gas bag module (5) may tilt when the horn is actuated. Bohn et al. does not disclose tilting of the studs (10).

Since Bohn et al. fails to teach or suggest this feature of claim 1, the rejection of claim 13 is improper and should be reversed.

Several arguments from the Office Action have been addressed above with regard to claim 1. The discussion set out above with respect to these arguments also applies to claim 13.

The Office Action has not shown that the stud (10) of Bohn et al. will necessarily tilt, as recited in claim 13. The Office Action has not even established that the stud (10) of Bohn et al. will probably tilt. Thus, the test for inherency of Crown Operations has not been satisfied. The mere fact that the stud (10) of Bohn et al. may tilt, given a set of circumstances (i.e., being hit with a hammer), is not sufficient to establish inherency.

The rejection of claim 13 should be reversed and claim 13 should be allowed.

g. <u>Conclusion</u>

In view of the foregoing, Appellant respectfully submits that claims 1-14 are allowable. Reversal of the rejections is respectfully requested.

9. APPENDIX

Appendix A attached contains a copy of the claims on appeal.

Please charge any deficiency or credit any overpayment in the fees for this Appeal Brief to Deposit Account No. 20-0090.

Respectfully submitted,

Robert N. Lipcsik Reg. No. 44,460

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APPENDIX A

- A vehicle steering wheel having an axis, said steering wheel comprising:
 - a skeleton embedded in a foam casing;
 - a covering cap having an edge, said covering cap,

for actuation of a horn, being mounted so as to be displaceable in an axial direction, said foam casing of said skeleton adjoining said edge of said covering cap;

a gas bag module including a housing, said housing being open towards said covering cap and adapted to receive a gas bag, said housing having an electrical contact displaceable with said covering cap for a predetermined distance in said axial direction into contact with a corresponding electrical contact disposed on said steering wheel; and

a plurality of guides for guiding displacement of said covering cap, said guides being provided in a region of said edge of said covering cap, said guides being arranged and elastically mounted such that, upon laterally pressing down said covering cap for said predetermined distance by a force suitable for actuating said horn said guides are tilted by an amount allowed by a yielding of said foam casing.

2. The vehicle steering wheel according to claim 1, wherein said gas bag module is provided which is closed by said covering cap and which together with said covering cap is mounted so as to be displaceable in said axial direction, said guides being connected with said gas bag module.

- 3. The vehicle steering wheel according to claim 2, wherein said housing is cup-shaped which is open towards said covering cap and adapted to receive said gas bag, an edge of said receiving housing having extensions projecting laterally outwards and towards said edge of said covering cap, said guides being provided on said extensions.
- 4. The vehicle steering wheel according to claim 3, wherein said guides are bolts which are formed in one piece with said receiving housing.
- 5. The vehicle steering wheel according to claim 3, wherein said receiving housing as well as said guides are made of plastic.
- 6. The vehicle steering wheel according to claim 2, wherein a detent connection is provided between said skeleton and said gas bag module to support said gas bag module.
- 7. The vehicle steering wheel according to claim 1, wherein restoring springs are provided, said guides being bolts which extend through said restoring springs.
- 8. The vehicle steering wheel according to claim 1, wherein bearing bushes are provided, said guides being bolts which are inserted in said bearing bushes, said bearing bushes being fixedly mounted on said bolts in said axial direction and being pressed into said foam casing.

- 9. The vehicle steering wheel according to claim 1, wherein said guides are received in said covering cap so as to have no lateral play.
- 10. The vehicle steering wheel according to claim 1, wherein said module has a front side and said covering cap covers said module entirely on said front side.
- 11. The vehicle steering wheel according to claim 1, wherein said guides are not directly connected with each other.
 - 12. A vehicle steering wheel comprising:

a skeleton embedded in a foam casing and a covering cap having an edge, said covering cap, for actuation of a horn, being mounted so as to be displaceable in an axial direction, said foam casing of said skeleton adjoining said edge of said covering cap,

a gas bag module including a cup-shaped receiving housing which is open towards said covering cap and adapted to receive a gas bag,

said housing having an electrical contact which is displaceable with said covering cap in said axial direction into contact with a corresponding electrical contact located on said steering wheel,

a plurality of guides formed in one piece with said housing so that no clearance exists between the outer surface of said guide and the housing, said guides being provided in a region of said edge of said covering cap, said guides being arranged such that and elastically mounted such that upon laterally pressing

down said covering cap for actuating said horn, said guides are tilted allowed by a yielding of said foam casing.

13. A vehicle steering wheel having an axis, said steering wheel comprising:

a skeleton embedded in a foam casing, said foam casing having a plurality of recesses;

a covering cap having an edge, said covering cap, for actuation of a horn, being mounted so as to be displaceable in an axial direction, said foam casing of said skeleton adjoining said edge of said covering cap;

a gas bag module including a housing, said housing being open towards said covering cap and adapted to receive a gas bag, said housing having an electrical contact displaceable with said covering cap for a predetermined distance in said axial direction into contact with a corresponding electrical contact disposed on said steering wheel; and

a plurality of guides for guiding displacement of said covering cap, said guides being provided in a region of said edge of said covering cap, said guides being arranged and elastically mounted such that, upon laterally pressing down said covering cap for said predetermined distance by a force suitable for actuating said horn, said guides are tilted by an amount allowed by a yielding of said foam casing,

each of said guides being arranged for axial movement in a corresponding one of said plurality of recesses of said foam casing.

14. A vehicle steering wheel having an axis, said steering wheel comprising:

a skeleton embedded in a foam casing;

a covering cap having an edge, said covering cap, for actuation of a horn, being mounted so as to be displaceable in an axial direction, said foam casing of said skeleton adjoining said edge of said covering cap;

a gas bag module including a housing, said housing being open towards said covering cap and adapted to receive a gas bag, said housing having an electrical contact displaceable with said covering cap for a predetermined distance in said axial direction into contact with a corresponding electrical contact disposed on said steering wheel;

a plurality of guides for said covering cap, said guides being provided in a region of said edge of said covering cap; and

a plurality of bearing bushings arranged in said foam casing for receiving said guides,

said guides being arranged and elastically mounted such that said guides, together with said bearing bushings are tilted upon lateral pressure exerted on said covering which lateral pressure displaces said covering cap said predetermined distance for actuating said horn.